

REMARKS

Claims 38-49, 74-74 and 80-87, of which claims 38, 74, 75 and 80-81 are independent, have been examined. Claims 38-49, 74-75, 80 and 83-87 stand rejected as being anticipated by Douglas; claims 81-82 stand rejected based on obviousness in view of the same reference.

To advance prosecution, independent claims 38, 74, 75 and 80-81 are amended. Claims 88-97 are added. Various conforming and clarifying amendments are made to the dependent claims. Remaining active are claims 38-49, 74-75 and 80-97. Favorable reconsideration of the application, as currently presented, is requested.

Douglas, the sole reference applied to all claims, describes a compliance monitoring system and method in behavior modification in which a patient is guided in the direction of certain goals based on established medical protocols. Whereas the currently claimed invention also involves monitoring of patient compliance, it does so differently.

Claim 38 requires, in part:

customizing one or more medical protocols including a medication regimen based on the received data to derive one or more customized medical protocols;

using the medical monitoring devices, monitoring compliance to the medication regimen by the one or more patients.

Claim 74:

customizing medical protocols including medication regimens associated with the patient and the one or more other patients based on the received medical data and the retrieved information to derive customized medical protocols for the patient and the one or more other patients;

using the medical monitoring device, monitoring compliance by the patient to the medication regimen;

Claim 75:

customizing means configured for automatically customizing one or more medical protocols including medication regimens based on the received data to derive one or more customized medical protocols;

monitoring means for monitoring compliance with the medication regimen by a patient;

Claim 80:

customizing means configured for customizing one or more medical protocols including a medication regimen associated respectively with the patient and the one or more other patients based on the received data and the retrieved information to derive customized medical protocols for the patient and the one or more other patients;

monitoring means for monitoring compliance with the medication regimen by the respective patients;

Claim 81:

implementing one or more medical monitoring devices to:

based at least in part upon the answers to the one or more of the questions by an individual patient, provide a medication regimen, and trigger an event conveying information to the individual patient regarding the administration of a medication based on the medication regimen; and

monitor patient compliance to the medication regimen.

Disclosure support for the amendments, and for the added claims, is found aptly in the specification, for example, at paragraphs [0059] and [0197] for compliance monitoring, and [0149] for modification of protocol based in part on monitored compliance. Figures 10, 18, 19, and 27 relate to the monitoring of medication compliance. Paragraphs that further describe the monitoring of medication compliance or adherence of the patient, and other claimed aspects, include [0037], [0038], [0040], [0052], [0077], [0078], [0082], [0083], [0091], [0095], [0111], [0114], [0125], [0132], [0134], [0135], [0140], [0141], [0142], [0146] and others.

Douglas does not monitor *medication regimen compliance* using *medical monitoring devices* per independent claims 38, 74, and 81, or use *medical monitoring means* per claims 75 and 80. Douglas is silent on how medicinal regimen compliance is monitored or used from, Fig. 7, and it certainly does not describe a medical monitoring device or means for doing so. What is described simply is a report generated from patient records; there is no device monitoring of compliance within the disclosure of Douglas.

Nor does Douglas use compliance information to prompt patients to take medication, and to modify medical protocols, as taught by dependent claim 88, nor to customize medical protocol including medication regimen based on compliance per claim 93, disclosure support for which is found in the current specification at the paragraphs noted above and additional paragraphs in the current specification.

Douglas furthermore does not describe using voice prompts, per dependent claims 90, 92, 94, disclosure support for which is found in the current specification, at least at [360]. The other dependent claims similarly present subject matter that is neither disclosed by, nor rendered obvious in view of, Douglas.

Accordingly, claims 38-49, 74-75 and 80-97 are patentable over Douglas.

The specification is amended to revert to the earlier reference to related applications.

In view of the foregoing, it is clear that the outstanding rejections under 35 U.S.C. 102 and 35 U.S.C. 103, predicated on Douglas, are inapplicable to the claims as currently presented, and should be withdrawn. A Notice of Allowance is believed in order and courteously solicited.

Application No.: 09/845,066

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Stephen A. Becker

Registration No. 26,527

**Please recognize our Customer No. 20277
as our correspondence address.**

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 SAB:cms
Facsimile: 202.756.8087
Date: January 16, 2008